

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR APPROVAL OF)	CASE NO.
AFFILIATE AGREEMENTS RELATED TO THE)	2021-00421
MITCHELL GENERATING STATION)	

ORDER

This matter arises upon Kentucky Power Company's (Kentucky Power) notice of proposed modification to the Mitchell Plant Ownership Agreement (Ownership Agreement), which was filed pursuant to a Commission Order. In comments from the bench at the conclusion of the March 1, 2022 hearing and in an Order entered March 3, 2022, the Commission directed Kentucky Power to (1) file notice before March 16, 2022, stating whether it would file a modified Ownership Agreement; (2) file dates that Kentucky Power's counsel and witnesses would be available for an informal conference and a hearing, if Kentucky Power planned to file proposed modifications to the Ownership Agreement; and (3) established a procedural schedule for, among other things, filing briefs.

On March 15, 2022, Kentucky Power filed a motion for leave to file an amended application, pursuant to 807 KAR 5:001, Section 4(5), along with supplemental testimony and a copy of proposed modifications to the Mitchell Plant Ownership Agreement (Ownership Agreement). In accordance with the March 3, 2022 Order, Kentucky Power provided available dates for an informal conference to discuss the modifications and a formal hearing, and also suggested dates for Intervenor to file a response to the modified

Ownership Agreement and a proposed that a briefing schedule be established at the conclusion of a hearing, if scheduled, or by Order, if not scheduled.

On March 16, 2022, the Attorney General of the Commonwealth of Kentucky, by and through the Office of Rate Intervention (Attorney General) and Kentucky Industrial Utility Customers, Inc. (KIUC) (jointly, Attorney General/KIUC) jointly filed a response objecting to the motion for leave to file an amended application, contending that the parties were not afforded sufficient time to review the proposed modifications to the Ownership Agreement. Attorney General/KIUC requested that additional discovery be conducted and that Attorney General/KIUC be afforded the opportunity to file additional testimony because the amended testimony and Ownership Agreement modifications presented new issues not previously raised or explored.

The Commission notes that Kentucky Power first proposed the modifications to the Ownership Agreement in rebuttal testimony filed on February 9, 2022; the parties conducted limited cross examination on the concepts proposed in the Ownership Agreement modifications at the March 1, 2022 hearing; from the bench and in the March 3, 2022 Order, Kentucky Power was directed to file notice prior to March 16, 2022, stating whether Kentucky Power planned to file proposed modifications to the Ownership Agreement, and, if so, to provide dates for a hearing, with the Commission's availability on March 30, 2022 noted at the March 1, 2022 hearing; and an informal conference was held on March 9, 2022, during which Kentucky Power presented the proposed modifications to the Ownership Agreement, and that Commission Staff, Attorney General, and KIUC discussed the proposal with Kentucky Power representatives.

Based upon a review of the motions and case record, and being otherwise sufficiently advised, the Commission finds as follows:

1. The Commission finds that Kentucky Power established good cause to amend the application, and therefore Kentucky Power's motion to amend the application is granted. Pursuant to 807 KAR 5:001, Section 4(5), the amended application shall relate back to the November 19, 2021, filing date.

2. The Commission finds that an informal conference for Commission Staff and the parties to discuss the proposed modifications to the Ownership Agreement is not necessary at this time, and that the more efficient use of resources is for the Intervenors to file a written response to the proposed Ownership Agreement modifications and supplemental testimony. If the parties wish to discuss the proposed Ownership Agreement modifications, they can do so without Commission Staff being present.

3. The Commission finds that, for reasons of transparency, parties to the case should be afforded the opportunity to file written responses to the proposed Ownership Agreement prior to the March 30, 2022 hearing, in lieu of an informal conference. Parties may file their written responses to the proposed Ownership Agreement on or before March 23, 2022.

4. The Commission finds that Kentucky Power established good cause to schedule a formal evidentiary hearing on the proposed modifications to the Ownership Agreement and that the parties shall have an opportunity to present witnesses in support of their positions and to rebut other parties' evidence. A hearing in this matter shall be held on March 30, 2022, at 10:00 a.m. Eastern Daylight Time in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort,

Kentucky. Counsel for each of the parties shall file a motion no later than March 23, 2022, request for counsel or the party's witnesses to participate virtually.

5. Kentucky Power shall exercise its best efforts to provide notice of the March 30, 2022 hearing in compliance with 807 KAR 5:001, Section 9(2)(b).

6. The briefing schedule established in the March 3, 2022 Order shall be stricken and a new briefing schedule established at the conclusion of the March 30, 2022 hearing.

IT IS THEREFORE ORDERED that:

1. Kentucky Power's motion to file an amended application is granted. The amended application shall relate back to the November 19, 2021 filing date of the original application.

2. Each party may file a written response to the proposed Ownership Agreement on or before March 23, 2022.

3. A hearing in this matter shall be held on March 30, 2022, at 10:00 a.m. Eastern Daylight Time, in the Richard Raff Hearing Room at the offices of the Public Service Commission at 211 Sower Boulevard, Frankfort, Kentucky.

4. Kentucky Power shall use its best efforts to give notice of the hearing in compliance with 807 KAR 5:001, Section 9(2)(b). In addition, the notice of hearing shall include the following statements: "This hearing will be streamed live and may be viewed on the PSC website, psc.ky.gov"; and "Public comments may be made at the beginning of the hearing. Those wishing to make oral public comments may do so by following the instructions listed on the PSC website, psc.ky.gov." At the time the notice is mailed or

publication is requested, Kentucky Power shall forward a duplicate of the notice and request to the Commission.

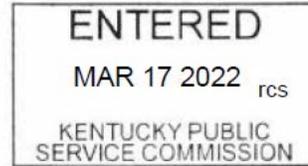
5. Pursuant to KRS 278.360 and 807 KAR 5:001, Section 9(9), a digital video transcript shall be made of the hearing.

6. On or before March 23, 2022, each party shall file a list of witnesses for the March 30, 2022 hearing, setting forth the names of each witness, the topic the witness will address, and the order in which the party will call its witnesses.

7. Ordering paragraphs four, five, and six of the March 3, 2022 Order are stricken.

8. All other provisions of the March 3, 2022 Order not in conflict with this Order remain in full force and effect.

By the Commission



ATTEST:


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